



Legislation Details (With Text)

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**Title:** Pass the Ordinance amending the Home Rule Sales Tax and Downtown Food and Beverage Tax by amending Section 11 of Chapter 1, Title 3 and Section 9 of Chapter 1, Title 3 of the Naperville Municipal Code. (Item 2 of 2)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. HRST Ordinance - 0.pdf, 2. Attachment - Local Sales Tax Comparisons

Date	Ver.	Action By	Action	Result
2/20/2018	1	City Council	tabled	Pass

**CITY COUNCIL AGENDA ITEM**

**ACTION REQUESTED:**

Pass the Ordinance amending the Home Rule Sales Tax and Downtown Food and Beverage Tax by amending Section 11 of Chapter 1, Title 3 and Section 9 of Chapter 1, Title 3 of the Naperville Municipal Code. (Item 2 of 2)

**DEPARTMENT:** Finance Department

**SUBMITTED BY:** Rachel Mayer, Finance Director

**BOARD/COMMISSION REVIEW:**

At their August 28, 2017 board meeting, The Financial Advisory Board recommended a 1.00% Home Rule Sales Tax and the elimination of the current property tax abatement.

**BACKGROUND:**

***Home Rule Sales Tax***

The City of Naperville is a home rule unit of local government. The 1970 Illinois Constitution granted home rule authority to qualifying municipalities providing those municipalities with the ability to exercise any power and perform any function pertaining to its government and affairs including, but not limited to, the power to regulate for the protection of the public health, safety, morals and welfare which includes the broad general power to tax.

Illinois law authorizes the imposition of Home Rule Sales Taxes (HRST) by a home rule municipality upon all persons engaged in the business of selling certain tangible personal property at retail in the municipality of the gross receipts from such sales; and upon all persons engaged in the municipality of certain tangible personal property transferred by said servicemen either in the form of tangible personal property or in the form of real estate as an incident to a sale of service. The sale of certain

items such as vehicles registered or titled with the State of Illinois, groceries other than alcoholic beverages, soft drinks and food prepared for immediate consumption and prescription and nonprescription medicines, drugs and certain medical appliances are statutorily exempt from the Home Rule Sales Tax.

Home Rule Sales Taxes are administered, collected and enforced by the Illinois Department of Revenue (IDOR). Two annual deadlines are imposed for the implementation of a Home Rule Sales Tax. If an ordinance is adopted and filed on or before by October 1, IDOR will begin administering and enforcing the Home Rule Sales Tax as of January 1 the next year. The second filing deadline is April 1 for a July 1 implementation.

On September 1, 2015, the City approved an ordinance (15-160) establishing a Home Rule Sales Tax at the rate of 0.50%, specifying proceeds of the tax would be restricted for use in increasing the City's cash reserves and reducing the City's debt. The ordinance included a sunset provision which required the City to review the ordinance for continued appropriateness in two years. The ordinance (17-147) was re-authorized at the September 19, 2017 City Council meeting for an additional two-year term when the City will re-assess the ordinance for continued appropriateness.

It is notable that the State of Illinois imposes a 2.00% administrative fee that is retained by the state to cover the costs of administering the taxes imposed by municipalities.

### ***Downtown Food and Beverage Tax***

The City's Downtown Food and Beverage Tax, pursuant to Section 3-1-9 of Naperville Municipal Code, requires an adjustment of said tax in the event of enactment of a Citywide "Home Rule Sales Tax" that is imposed for the purpose of financing parking facilities, and it is foreseeable that the Home Rule Sales Tax would be used to reduce debt for any potential parking facilities. If the Home Rule Sales Tax ordinance is sunset or the rate is amended, the City will need to adjust the Downtown Food and Beverage Tax commensurate with the rate change in the Home Rule Sales Tax.

### **DISCUSSION:**

During the December 19, 2017 City Council meeting, the motion to approve the City's property tax levy was amended to direct staff to bring back for Council consideration \$2.1 million in changes that would further reduce the property tax levy to an amount less than last year's levy.

As a component of the \$2.1 million in changes that would further reduce the property tax levy, it is recommended that the City increase its Home Rule Sales Tax from 0.50% to 0.75%, effective July 1, 2018.

During the February 6, 2018 City Council meeting, the first reading of the Home Rule Sales Tax was conducted. Several items were brought up during discussion including how we compare to local and national communities; what percentage of revenues are generated by residents versus non-residents; and looking at how the Home Rule Sales Tax interrelates with the City's deliberations regarding the citywide food and beverage tax.

Included as an attachment to this agenda item are area comparable rates for local sales tax. The City's local comparable communities include those within a 10-mile radius and communities with similar population and demographics. When reviewing national comparable communities, as identified through the Citizen's Survey, we found a wide range of local sales tax rates, these rates do not include state sales tax rates nor sales tax rates for other taxing jurisdictions such as counties. For

example, Fort Collins, Colorado has a local sales tax rate of 3.85%, Chicago has a local sales tax rate of 1.25%, and Durham, North Carolina has no local sales tax. Due to the unique economic environments of each state, the variable nature of state and local tax structures, and the roles and responsibilities of municipal government in each state, a comparison of tax rates across national comparisons is difficult. Staff believes that the local comparables provided in the attachment are more useful as non-local purchases are not a feasible alternative in most cases.

The City's best estimate regarding the percentage of revenues generated by residents and visitors is that approximately 50% of revenues are from visitors. This estimate is based upon published university research. Providing a specific figure is only feasible if each business tracks and provides customer information to the City.

Regarding the relationship with the Citywide Food and Beverage tax, staff has provided five options for implementation. It should be noted that changes to the food and beverage tax can be implemented any time before January 1, 2019 as the tax is locally administered whereas the home rule sales tax ordinance must be passed prior to April 1, 2018 to be effective on July 1, 2018 as the tax is State administered.

1. Maintain status quo with HRST at 0.50% and Citywide Food and Beverage tax at 1.00%
2. Increase the HRST to 0.75% and decrease the Citywide Food and Beverage tax to 0.75%
3. Increase the HRST to 0.75% and maintain the Citywide Food and Beverage tax at 1.00%
  - i. No additional revenue restrictions
  - ii. Restrict a portion of revenues towards Ogden Avenue improvements
  - iii. Restrict a portion of revenues towards downtown streetscape investments

Staff's recommendation would be 3i; increasing the HRST to 0.75% and maintaining the Citywide Food and Beverage tax at 1.00% with no additional revenue restrictions. Currently, HRST revenues are restricted by ordinance to debt service and capital projects, this allows Council the opportunity to deliberate the allocation of resources during annual budget discussions, which could include the Ogden or downtown streetscape projects.

**FISCAL IMPACT:**

The City currently receives approximately \$9.1 million in annual receipts through the HRST at a 0.50% rate. Therefore, an incremental 0.25%, for a total rate of 0.75%, is projected to gross \$4.55 million on an annual basis. The state assesses a 2% administrative fee, meaning the total net annual revenues are \$4.46 million.

Similar to the implementation of the telecommunications tax, there is a three-month delay in the disbursement of the funds once the tax is enacted. Therefore, if the tax is approved for a July 1 implementation, the City would begin receiving disbursements starting October 2018. The total projected value for 2018 is \$1.1 million.